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12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Ubaldo Saldana-Garcia,

15 Petitioner,

16 v.

17 Brian Williams, *et al.*,

18 Respondents

Case No. 2:19-cv-00441-APG-BNW

**Unopposed motion to extend
deadline to file amended petition**

19 Saldana-Garcia respectfully requests an extension of 52 days, up to and
20 including **October 31, 2019**, to file his amended petition. This is his first request
21 for an extension. This deadline reflects the statute-of-limitations deadline in this
22 case, and thus, this extension would allow Saldana-Garcia to enjoy the full year
23 Congress has afforded him to prepare and file a habeas corpus petition for federal
24 relief. Respondents do not oppose, though the parties agree that their waiver does
25 not constitute tacit agreement with any of the foregoing, nor should it be construed
26 as a waiver of any procedural defenses.
27

1 **POINTS AND AUTHORITIES**

2 Saldana-Garcia seeks federal habeas relief from this Court.¹ This Court
3 appointed counsel² and set a deadline of September 9, 2019 for counsel to file an
4 amended petition on Saldana-Garcia's behalf.³ This is his first request for an
5 extension and respondents do not oppose.

6 Saldana-Garcia is moving for an extension because he has calculated a
7 statute-of-limitations deadline of October 31, 2019, to seek federal habeas relief,
8 and he would like to take advantage of the full time Congress has afforded him to
9 prepare and file his petition. Briefly, Saldana-Garcia has calculated this deadline
10 because the time for him to seek certiorari from the United States Supreme Court
11 expired on Sunday, May 31, 2015, rendering a true deadline of Monday, June 1,
12 2015.⁴ Saldana-Garcia then used 63 days from that point to prepare and properly
13 file a timely state petition for writ of habeas corpus on August 3, 2015.

14 The state courts did not finally resolve these post-conviction proceedings until
15 the Nevada Supreme Court's issuance of remittitur on January 2, 2019. From this
16 point, with 302 days remaining for his federal period of limitations, Saldana-
17 Garcia's statute-of-limitations deadline to seek federal habeas relief became October
18 31, 2019.⁵ As of the date of this filing, then, he still has 52 days remaining to seek
19 federal habeas relief. Here, it is to his advantage to utilize all of it.

20 Further, the demands of other cases have Saldana-Garcia from meeting the
21 current September 9, 2019 deadline. *See, e.g., Vincent v. McDaniel*, No. 17-16992,
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23 ¹ ECF No. 4.

24 ² ECF No. 6.

25 ³ ECF No. 9.

26 ⁴ *Union Nat. Bank of Wichita, Kan. v. Lamb*, 337 U.S. 38, 40–41 (1949) (holding
27 that if the deadline to seek cert falls on a Sunday, the deadline extends to Monday).

⁵ *See generally* 28 U.S.C. § 2244(d).

1 ECF No. 48 (9th Cir. June 14, 2019); *Cardenas v. Baker*, No. PC-5364 (Nev. 5th J.
2 Dist. Ct. June 19, 2019); *Holmes v. Gentry*, No. 2:17-cv-01980-RFB-GWF (D. Nev.
3 Aug. 2, 2019); *Flores v. Williams*, No. A-19-794716-W (Nev. 8th J. Dist. Ct. Aug. 2,
4 2019); *Morales v. Baker*, No. A-19-794622-W (Nev. 8th J. Dist. Ct. Aug. 2, 2019);
5 *Berry v. Baker*, No. 3:16-cv-00470-MMD-WGC (D. Nev. Aug. 8, 2019); *Nicholson v.*
6 *Baker*, No. 3:16-cv-00486 (D. Nev. Aug. 23, 2019). Further, counsel has been
7 working diligently to meet an upcoming amended-petition deadline in the case of
8 *McNair v. Baca*, No. 3:18-cv-00308-HDM-CBC (D. Nev.).

9 Furthermore, counsel was on leave from June 21–23, and then again from
10 June 29 through July 8. After that, counsel attended in an out-of-town, three-day
11 seminar on August 12–14, 2019.

12 Finally, during this time, counsel was preparing for a September 4, 2019,
13 evidentiary hearing before this Court in the case of *Davis v. Neven*, No. 2:15-cv-
14 01574-RFB-NJK (D. Nev.).

15 The above demands prevented counsel from meeting the current deadline.
16 Further, it is to Saldana-Garcia’s deadline to utilize the remainder of his statutory
17 federal period of limitations to prepare and file his amended petition in this case.
18 Accordingly, he seeks a 52-day extension to utilize the remainder of this time, up to
19 and including October 31, 2019. This is his first request.

20 On September 6, 2019, counsel for Respondents, Deputy Attorney General
21 Charles L. Finlayson, indicated by email that Respondents do not oppose the
22 instant request for a 52-day extension. However, the parties agree that
23 Respondents’ non-opposition does not constitute tacit agreement with any of the
24 representations in this motion, including Saldana-Garcia’s statute-of-limitations-
25 deadline calculation, nor does it constitute a waiver of any procedural defenses,
26 such as a claim of untimeliness under the statute of limitations.
27

1 **CONCLUSION**

2 Saldana-Garcia does not request this extension for the purposes of undue
3 delay but solely in the interests of justice, to utilize his remaining statutory period
4 of limitations to seek federal relief and to allow his counsel to prepare and file a
5 comprehensive amended petition on his behalf during this time.

6 Accordingly, for all of the above reasons, Saldana-Garcia respectfully
7 requests an extension of the deadline to file an amended petition of 52 days, **up to**
8 **and including October 31, 2019.**

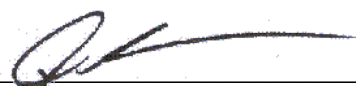
9 Dated September 9, 2019.

10 Respectfully submitted,

11 Rene L. Valladares
12 Federal Public Defender

13 /s/S. Alex Spelman
14 S. Alex Spelman
15 Assistant Federal Public Defender

16
17 **IT IS SO ORDERED:**

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19 
20 United States District Judge

21 Dated: 9/9/2019
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